

The Honorable Lauren King

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES,

Plaintiff,

v.

THE BOEING COMPANY,

Defendant.

CASE NO. 2:22-cv-00485-LK

**STIPULATED MOTION AND
[PROPOSED] ORDER TO UNSEAL
PORTIONS OF BOEING'S
MOTION TO DISMISS AND
DOCUMENTS FILED UNDER SEAL**

[LCR 7(k), 10(g)]

NOTE ON MOTION CALENDAR:
July 8, 2022

Pursuant to Local Civil Rules 5(g)(8), 7(d)(1) and 10(g), Plaintiff The United States (“United States”) and Defendant The Boeing Company (“Boeing”) (together, the “Parties”), hereby submit this stipulated motion to unseal previously-sealed portions of Boeing’s motion to dismiss (Dkt. 30, filed on June 21, 2022) and the three documents that Boeing filed under seal on the same day (Dkt. 33-35).

WHEREAS, on June 21, 2022, Boeing filed an unopposed motion to seal portions of its motion to dismiss and three documents it filed in support of its motion. *See* Dkt. 27 (motion to seal); Dkt. 29 (redacted motion to dismiss); Dkt. 30 (sealed motion to dismiss); Dkts. 33-35 (three sealed documents).

WHEREAS, if granted, this stipulated motion would moot the unopposed motion to seal.

WHEREAS, in accordance with LCR 5(g)(8), the Parties offer the following grounds justifying this motion:

STIPULATED MOTION TO UNSEAL AND
[PROPOSED] ORDER - 1
(Case No. 2:22-cv-00485-LK)

157385224.1

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- 1 1. Boeing’s unopposed motion to seal was based on its understanding that the United
2 States had designated the three documents that Boeing filed in support of its motion
3 to dismiss pursuant to the Arms Export Control Act, 22 U.S.C. §§ 2751-2799
4 (“AECA”) and its implementing International Traffic in Arms Regulations, 22
5 C.F.R. §§ 120-130 (“ITAR”), even though Boeing communicated to the United
6 States that it did not believe the three documents contained any ITAR-protected
7 technical data. Dkt. 27 at 3-4.
- 8 2. Before Boeing filed the motion to seal, the Parties explored whether the United
9 States could withdraw the ITAR designation prior to the June 21, 2022 deadline for
10 Boeing to file its motion to dismiss. *Id.* at 4.
- 11 3. The United States concluded it was not feasible by the deadline for Boeing’s motion
12 to dismiss to withdraw the ITAR designation, but committed to continue to examine
13 whether it could withdraw the designation. *Id.*
- 14 4. After Boeing filed the motion to dismiss and supporting motion to seal, the Parties
15 met and conferred again on this topic. The Parties now agree that the three
16 documents, and the portions of Boeing’s motion to dismiss that refer to those three
17 documents, do not need to be sealed.
- 18 5. The Parties agree that the entirety of Boeing’s motion to dismiss may be filed
19 publicly.

20 NOW THEREFORE, the Parties, through their respective counsel, do hereby stipulate
21 and agree that the Court may make and enter the following order, and pursuant to LCR 5(g)(8),
22 7(d)(1) and 10(g), hereby seek such an order from the Court:

- 23 1. The Clerk shall unseal Boeing’s motion to dismiss [Dkt. 30];
- 24 2. The Clerk shall unseal the three documents that Boeing filed under seal [Dkts. 33,
25 34, 35];
- 26 3. Boeing’s motion to seal [Dkt. 27] shall be denied as moot.

1
2 IT IS SO STIPULATED:

For the United States of America:

3 TODD KIM
4 Assistant Attorney General
5 Environment and Natural Resources Division
6 United States Department of Justice

7 DATED: July 8, 2022

s/ Patricia L. Hurst
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For The Boeing Company:

21 Dated: July 8, 2022

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27 STIPULATED MOTION TO UNSEAL AND
28 [PROPOSED] ORDER - 3
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1 IT IS SO ORDERED.

2
3 Dated this _____ day of _____, 2022.

4
5
6
7 THE HONORABLE LAUREN KING
8 United States District Judge
9

10 Presented by:

11 For the United States of America:

12 TODD KIM
13 Assistant Attorney General
14 Environment and Natural Resources Division
15 United States Department of Justice

16 s/ Patricia L. Hurst

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29 STIPULATED MOTION TO UNSEAL AND
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STIPULATED MOTION TO UNSEAL AND
[PROPOSED] ORDER - 6
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